

REMARKS

OVERVIEW

Claims 1-70 have been rejected under 35 U.S.C. § 103 as being obvious over Fisher in combination with Zandi. Applicant respectfully traverses these rejections, and requests reconsideration of the claims.

Paragraph 2 of the Office Action indicates that claims 71-73 have been cancelled. To the contrary, only claims 71 and 72 have been cancelled, and 73 is still pending. See page 15 of Applicant's amendment dated December 23, 2004. Accordingly, consideration of claim 73 is respectfully requested.

Independent claims 1, 59, 60 and 67 are directed towards a method, a system, an apparatus, and a product, respectively, all of which have the common limitation of automatically evaluating and matching an offer and a request for an offer based upon the degree of identicalness of a set of classification and material terms recited in the offer and request for offer. Each of claims 1, 59, 60 and 67 also provide for communication to the "matched participants" of the results from the evaluation and matching limitation of the respective claim. The Fisher and Zandi patents, alone or in combination, fail to meet these limitations of independent claims 1, 59, 60 and 67.

More particularly, Fisher discloses a computerized auction system, wherein the highest bidder wins the goods or services. Fisher does not disclose any evaluating or matching of the buyer and seller based upon the degree of identicalness of the terms of their offers or requests, in accordance with claims 1, 59, 60 and 67. Furthermore, Fisher does not "match participants", in accordance with claims 1, 59, 60 and 67, but merely identifies the highest bidder for the goods or services.

The Zandi patent does not overcome the deficiencies of Fisher. In Zandi, there are two human intervention steps which are necessary. First, a person with the lender must approve the loan bid or request, and second, a person with the borrower must accept the lender's bid. See column 1, lines 6-10; column 2, lines 16-31; column 3, lines 1-7 and 27-30; and Figure 4A. In comparison, independent claims 1, 60 and 67 provide that the evaluating and matching is done "automatically". Similarly, independent claim 59 provides that the evaluating and matching is done automatically by a data processor. Since Zandi does not have such automatic evaluation and matching, but rather requires personal intervention, Fisher and Zandi in combination do not meet the limitations of independent claims 1, 59, 60 and 67.

The Examiner's basis for combining Fisher and Zandi is also flawed. The alleged motivation for combining these references is to "teach an electronic auction with bidders that brings the time efficiency of a live auction to remote bidders over the Internet as enunciated by Zandi." See Office Action, paragraph 9. However, Fisher is a live electronic auction over the Internet with remote bidders. Zandi offers nothing new for Fisher. Therefore, the combination is improper.

The Federal Circuit has explained that there must be "some objective teaching" leading to the combination. *In re Fritch*, 972 F.2d 1260, 1265 (Fed. Cir. 1992). As further explained in *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999), this showing must be "clear and particular." Here there is no clear, particular objective teaching to combine Fisher and Zandi. Thus, the § 103 rejection must be withdrawn.

In view of the foregoing, independent claims 1, 59, 60 and 67 distinguish over the cited references so as to be in proper form for allowance. The claims depending therefrom are allowable as depending from allowable base claims.

Independent claim 68 is directed towards a computerized method for determining an optimized business action or plan, including the steps of data-mining customer or market information, and simulating the market based upon the results of the data-mining step and certain operation steps. Fisher and Zandi have no disclosure relating to such a business optimization method. Therefore, independent claim 68 distinguishes over the cited references so as to be in proper form for allowance.

Independent claim 69 is directed towards a computer-implemented method for determining IQ. Fisher and Zandi have no discussion regarding IQ. Therefore, claim 69 is allowable. (Applicant notes that in its prior amendment dated December 23, 2004, claim 69 was inadvertently and inaccurately described as being directed towards a method for automatically contacting 911 for emergency services.)

Claim 70 is directed towards a method for automatically contacting 911 for emergency services. Since Fisher and Zandi have no disclosure regarding a 911 emergency service method, claim 70 is in proper form for allowance.

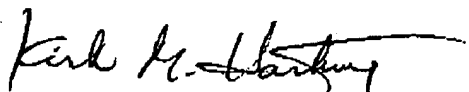
Independent claim 73 is directed towards a computerized method for auctioning services and includes the step of automatically matching one offer or request for offer with service classification and material terms identical to those described in the initial request for offers. As discussed above, since Fisher and Zandi do not automatically match offers and requests for offers based upon identical material terms, claim 73 distinguishes over these references so as to be allowable.

In view of the foregoing, Applicant respectfully requests that a Notice of Allowance be issued.

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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